

Claimants Wrongfully Accused of Unemployment Fraud:

From the Unemployment Insurance Clinic - University of Michigan Law School
Presented to the House Oversight Committee, October 26, 2017

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I am from Garden City, MI, and my wife and I together have four children. I was laid off for lack of work from my job at Severstal, a steel company, in June 2009. Following my lay-off, my employer suggested that I apply for unemployment insurance benefits. I first started receiving unemployment insurance benefits in June 23, 2009. I received benefits after that for 11 months. When my former employer, Severstal, asked me to return to work on May 10, 2010.



At this point, I went back to work, and stopped claiming benefits. When I moved in December 2011, I was no longer corresponding with the agency. At this point, I thought the system worked well.

However, that changed in July of 2014, when my employer notified me that my wages were being garnished by the Unemployment Insurance Agency (UIA). Turns out, the UIA issued a determination in my case on August 2, 2012 – two months after I stopped claiming benefits. The UIA alleged that I had unreported earnings while receiving benefits and also made a fraud determination against me. But I never received the notice of these determinations because I had moved to a new address. Even though the UIA received a "return to sender" envelope after mailing the determinations, the agency made no attempt to locate me at my new address. When I found out in July 2014, I was shocked to learn that the UIA assessed a debt of over \$25,000, this included over \$17,000 in penalties and over \$1,500 interest included. They were claiming that I was overpaid \$6,500, but they never stated the grounds for making this determination.

I tried to fight the garnishment, and my union and even my employer helped to hold off the garnishment temporarily, but they were unable to convince the UIA that I didn't owe the money and started collecting again. So, in September 2014, I filed an appeal of the August 2012 determinations, which was denied by the UIA in November 2014. The denial cited that my protest was after the 30-day protest period, despite the fact that the UIA had a "return to sender" envelope indicating I never received the original notice. At this point, my attorneys requested the UIA at least stop garnishing my wages while the appeal was pending. The UIA denied that request and refused to stop the garnishment, stating that it was properly engaging in collection activity, because I filed a late protest.

(David Vela, continued)

After all of this back and forth, and over \$4,500 in wages being collected, I was given a chance to participate in an administrative hearing on April 21, 2015. My employer testified on my behalf and introduced letters that they had sent to the UIA stating I was not employed or being paid during the period I was receiving benefits and that the company believed me to be eligible for benefits during that period. The UIA didn't even show up for the hearing or participate.

At the close of the hearing the administrative law judge found in my favor and found that the agency wrongfully garnished over \$4,800 from my wages and tax returns. But it took over a month after the administrative law judge decided in my favor to get that money back.

Beyond the lost money, I lost a tremendous amount of time in the process. The agency's garnishment of my wages forced me to work 6-7 days a week for 12 hours a day to prevent defaulting on any of my bills. It affected my ability to sleep and caused me to have depression. It increased arguments and strained my relationship with my spouse.

After all of this financial and personal pain, I have yet to receive an explanation on what triggered the agency to find fraud in my case. I don't think I ever will.

Brian Saylor

Brian Saylor is a resident of Oakland County and the sole provider for his family. He previously worked for a lawn sprinkler and plumbing business in 2013. On November 25, 2013, Mr. Saylor informed his supervisor that his team leader accosted him and used profanity. With only a few days left in the season, Brian's supervisor abruptly announced that Brian was laid off.

After losing his job, Brian collected unemployment benefits. Long after he stopped receiving benefits, Brian received an unexpected letter from the Michigan Unemployment Insurance Agency accusing him of fraud. The fraud accusation stemmed from the Agency's computer system, MIDAS. This system flagged fraud because of mismatch in reporting: Brian reported that he was laid off from his job, but in the Agency's database, it showed that his former employer claimed that Brian quit. The Agency never contacted Brian's former employer to determine whether this was accurate. Instead, the Agency sought over \$19,000 in penalties from the father of five.

When Brian appealed the Agency's fraud determination, an Administrative Law Judge reversed the Agency's ineligibility and fraud decision. The Judge found no proof that Brian quit his job and found no evidence that Brian committed fraud.

Gary Prater

Gary Prater is a former Michigander who had worked for Ford since 1999. While working at Ford, Gary also worked part-time at Target. In late January of 2012, Gary was transferred by Ford to another Ford facility in Kentucky. Because Gary had to relocate for his full-time job with Ford, he was forced to leave his part-time job at Target.



After working only five days at the Ford Plant in Kentucky, Gary was abruptly laid off by Ford, which filed a claim for unemployment benefits on Gary's behalf. After reviewing the claim, the Michigan Unemployment Insurance Agency ruled that Gary was disqualified for voluntarily quitting his job at Target and accused him of fraud.

Under Michigan law, a claimant is guilty of fraud if the claimant made an intentional false statement, misrepresented information, or concealed material information from the Agency. Because Ford (his former employer) filed for benefits on his behalf, Gary did not communicate with the Agency at all. Thus, he could not have made an intentional false statement, misrepresented information, or concealed material information from the Agency. Despite this, the Agency insists, to this day, that Gary committed fraud and seeks roughly \$9,000 in penalties from Gary. Even though Gary faces a false accusation, the State has already seized \$4,000 from his hard-earned wages.

In addition to this false accusation, the Agency's determination that accused Gary of fraud was sent to his old address, so Gary did not receive notice in a timely manner. Two months after this determination was sent, Gary's old neighbor noticed that Gary was still receiving mail at his former house. His neighbor forwarded Gary's mail to his new address. By the time that Gary received this determination, the appeal deadline had long passed. After finally receiving this determination, Gary took timely and reasonable steps in response. He began consistently calling the Agency at least once a week and at most three times a day. Despite weeks of call, Gary reached an Agency representative only once. The representative informed Gary that his appeal was late and refused further assistance.

Gary continued to fight to get his case reopened and received a Denial of Reconsideration from the Agency in 2015. In effect, the document informed Gary that the Agency refused to reconsider Gary's case, despite the fact that he could not have committed fraud and did not receive notice of the fraud allegation in a timely manner. During this period, Gary suffered several strokes, preventing him from a timely appeal of the Agency's Denial of Reconsideration.

(Gary Prater, continued)

After Gary's health began to stabilize, he was referred to pro-bono counsel who appealed on his behalf in 2017. The appeal went before an Administrative Law Judge. The judge refused to provide Gary relief because Gary failed to protest the Agency's Denial of Reconsideration within a year. This decision ignored that Gary did not receive the Agency's initial determination accusing him of fraud and that Gary could not appeal the Agency's Denial of Reconsideration due to serious health issues.

Today, roughly five years after Gary was initially accused of fraud, Gary continues to spend countless hours fighting to reverse his fraud determination despite mounting health issues. Gary is currently awaiting a response to his most recent appeal from the Michigan Appellate Compensation. As he waits, a \$9,000 penalty continues to loom over his wife and him.

Earlene McQueen

Earlene McQueen is from Ypsilanti, MI, and has three adult children. She used to work for Compass Group, a food service company, which handled cafeteria work for the Ann Arbor Public Schools. Every summer, Earlene would get laid off from Compass, not knowing whether she would be asked to come back in the fall. When getting laid off, Compass would give Earlene paperwork on how to apply for unemployment insurance benefits – and so she applied for benefits every summer.

Sadly, in April 2015, Earlene's husband passed away. He left her a lot of debt, but Earlene also received his pension and social security income. She really needed her UI benefits to get by, and was worried the pension would affect her eligibility. Earlene didn't know if she should report her late husband's pension and social security as wages to the Unemployment Insurance Agency.

So, she asked the agency about it. The Agency told Earlene she didn't have to report her late husband's pension and social security. With the Agency's blessing, Earlene did not report the pension.

In May 2016, the Agency charged Earlene with fraud because she didn't report her late husband's pension when filing for UI benefits. The Agency claimed she owed \$5,000. It took Earlene's \$2,000 tax return. Earlene went to the University of Michigan Unemployment Insurance Clinic for help. Even though she won the hearing, the Agency sent Earlene a check for only \$297 of the \$2,000 it took from her. After 2 years of fighting the Agency, on top of dealing with all the debt her husband left behind, Earlene finally got her money from the Agency back.

Brian Russell

Brian Russell is from Grand Rapids, MI, and is a divorced father of two children. Brian worked as an Industrial Electrical Construction worker for Newkirk Electric for over 10 years. In 2013, Brian was abruptly laid off from his position with Newkirk Electric. To provide for his family, Brian accepted work at a temp agency: AeroTek. On his first day at AeroTek, Brian was let go by the company due to the mistake of a co-worker. Brian applied for unemployment benefits and collected benefits for twelve weeks without issue while searching for a new position. Shortly after, Brian secured a full-time position.



In 2015, the Unemployment Insurance Agency made the determination that Brian had committed fraud, and assessed approximately \$22,000 in penalties. The Agency garnished Brian's 2015 tax return, totaling \$11,000 (his case is still pending, and the Agency again garnished his 2016 tax return, taking \$6,000). Brian did not receive notice or an explanation before his taxes were garnished. He immediately contacted the Unemployment Insurance Agency multiple times but failed to reach a representative. Finally, upon reaching the Agency, it notified Brian that its computer system, MIDAS, reviewed his unemployment case and accused him of fraud. However, Brian was never made aware of why he was accused of fraud. Furthermore, Brian never received the Agency's notice accusing of fraud and threatening to garnish his taxes because the Agency sent the notices to Brian's old addresses. The Agency also sent notices to Brian's online unemployment account, which he stopped checking after obtaining full-time employment.

Pursuant to a federal legal settlement, the Agency reviewed Brian's case and did not rescind the fraud accusation. Brian appealed the Agency's decision. The Agency did not review Brian's appeal because it was not received within 30 days of the Agency's original fraud accusation (the same fraud accusation that Brian never received). Brian appealed the Agency's decision to an Administrative Law Judge ("ALJ"). On August 24, 2017, the ALJ issued an order to the Agency requiring it to review Brian's case within 30 days of the order. As of October 8, 2017, the Agency has yet to review his case.

Today, Brian is still unclear why the Agency even accused him of fraud. Because of this long appeals process and the tax garnishment, Brian's credit has taken a turn for the worst. He currently lives in his friend's basement with his children.